

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA LEE CHESTER,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 11-15353

HON. MARIANNE O. BATTANI

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, GRANTING IN PART PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT, DENYING DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT, REVERSING THE FINDINGS OF THE COMMISSIONER, AND
REMANDING THE MATTER FOR FURTHER REVIEW**

Plaintiff Theresa Lee Chester brings this petition for social security disability benefits pursuant to 42 U.S.C. § 405(g). The case was referred to Magistrate Judge Michael Hluchaniuk pursuant to 28 U.S.C. § 636(b)(1). After both parties filed motions for summary judgment, the Magistrate issued a Report and Recommendation ("R&R") recommending this Court grant in part Plaintiff's motion and reverse the findings of the Commissioner. (Doc. 16 at 21). The Magistrate Judge determined that the ALJ erred in finding Chester "not disabled" Step Two of the sequential analysis due to a lack of evidence of fibromyalgia, an impairment often not confirmed through objective medical symptoms and testing. Thus, the ALJ erred when she disregarded Chester's treating physicians' consistent diagnosis of fibromyalgia and failed to request further explanation from said treating physicians.

In the R&R, the Magistrate Judge informed the parties that objections to the R&R must be filed within "14 days of service" of a copy hereof and a "[f]ailure to file specific objections constitutes a waiver of any further rights of appeal." (R&R at 21-22). Neither party filed an objection.

Because no objections have been filed in this case, the parties waived their right to *de novo* review and appeal. Accordingly, the Court **ADOPTS** the Magistrate Judge's report and recommendation, **GRANTS IN PART** Plaintiff's motion for summary judgment, and **DENIES** Defendant's motion for summary judgment.

In addition, the findings of the Commissioner are **REVERSED** and the matter is **REMANDED** for further review.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: March 18, 2013

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon all parties of record, electronically.

s/Bernadette M. Thebolt
Case Manager